

STATE OF MINNESOTA
Department of Labor and Industry

In the Matter of EA Granite Tops LLC
and Evaristo E. Alarcon Cordova, Sr., individually

**ADMINISTRATIVE ORDER
WITH PENALTY**

I. ORDER

The Commissioner of the Minnesota Department of Labor and Industry (“Commissioner”) issues this Order against EA Granite Tops LLC and Evaristo E. Alarcon Cordova, Sr., individually (“Respondents”).

Pursuant to Minn. Stat. § 326B.082, subd. 7 (2016) and Minn. Stat. § 326B.083 (2016), the Commissioner hereby assesses against Respondents, jointly and severally, a monetary penalty of \$7,000, of which \$2,000 shall be forgiven if Respondents demonstrate to the Commissioner by the 31st day after this Administrative Order their full compliance with the Construction Contractor Registration requirements of Minn. Stat. § 326B.701, subd. 2 (2016).

The Commissioner also hereby orders Respondents to cease and desist from violating the laws cited in the “Conclusions of Law” section of this Administrative Order. Specifically, the Commissioner orders Respondents to cease and desist from performing public or private sector commercial or residential building construction or improvement services, using EA Granite Tops LLC or Evaristo E. Alarcon Cordova, Sr. or any other business name, in the state of Minnesota as defined in Minn. Stat. § 181.723, subs. 1 and 2 until such time as the Respondents:

1. fully respond to the Commissioner’s September 6, 2017 Subpoena Duces Tecum;
2. register with or secure licensure from the Minnesota Department of Labor and Industry (“Department”), as required by law; and
3. otherwise comply with Minnesota statutes referenced below in the “Conclusions of Law” section below.

The Commissioner takes the above action based upon the following findings of fact and conclusions of law:

II. FINDINGS OF FACT

1. Respondent Evaristo E. Alarcon Cordova, Sr. registered a limited liability company under the name EA Granite Tops LLC with the Minnesota Secretary of State on December 28, 2015 and was assigned File No. 862650700035. Cordova was named as the Manager and 638 E. 78th Street, #203, Richfield, Minnesota was listed as the company’s Registered and Principal Executive Office Address. This registration is active and in good standing as of the date of this Order.
2. On August 10, 2017, the Department opened an investigation of Respondents based on information indicating that Respondents may have engaged in violations of the Minnesota statutes governing the classification of workers in the construction industry.

3. On September 6, 2017, a Department investigator mailed a Subpoena Duces Tecum via first-class and certified mail to Respondents at their Registered Office Address. The first-class mailing was not returned to the Commissioner by the U.S. Postal Service (“USPS”).
4. “F. Greenleaf,” acting as agent for Respondents, accepted service of this certified mailing on September 11, 2017 by signing the certified mail receipt and returning it to the Department.
5. On September 29, 2017, the Department investigator mailed a follow up letter with a copy of the Subpoena Duces Tecum via first-class and certified mail to Respondents at their Registered Office Address. The first-class mailing was not returned to the Commissioner by the USPS. The second certified mailing was returned to the Commissioner marked “Unable to Forward” on October 19, 2017.
6. As of the date of this Order, Respondents have failed to respond to the Subpoena Duces Tecum.
7. In the course of its investigation, the Department learned that in 2016, Respondents performed residential building construction and improvement services for which registration in the Registration Program is required, as a subcontractor for TC Discount Granite, LLC.
8. As of the date of this Order, Respondents have not secured Department licensure nor have they registered with the Department in the Contractor Registration Program.

III. CONCLUSIONS OF LAW

1. Respondents committed violations of applicable law. *See* Minn. Stat. § 326B.082, subd. 7 (2016).
2. Respondents performed residential building or improvement services without being licensed by the Department or registered in the Registration Program in violation of Minn. Stat. §§ 181.723, subds. 7 and 8a, and 326B.701, subds. 2(a) and (b) 5(b)(1) (2016).
3. Respondents failed to comply with a subpoena issued by the Commissioner. Minn. Stat. § 326B.082, subd. 2(b) (2016).

IV. DETERMINATION OF PENALTY AMOUNT

In determining the amount of the penalty, the Commissioner considered: the extent of deviation from compliance; whether the violations were willful; the gravity of the violations; the number of violations; whether there is a history of past violations; whether Respondents gained economic benefit in not complying with the law; and other factors as justice may require.

V. REQUEST FOR HEARING

Pursuant to Minn. Stat. § 326B.082, subd. 8 (2016), Respondents shall have 30 days after issuance of this Administrative Order to request a hearing. A request for hearing must be in writing and must be served on or faxed to the Commissioner at the following address or fax number by the deadline.

Minnesota Department of Labor and Industry
CCLD – Enforcement Services Unit
Attention: Charlie Durenberger
443 Lafayette Road North
St. Paul, MN 55155

Fax number: (651) 284-5746

The date on which a request for hearing is served by mail shall be the postmark date on the envelope in which the request for hearing is mailed. The request for hearing must specifically state the reasons for seeking review of the order or notice. If the request for hearing is served by fax it cannot exceed 15 pages in length and must be received no later than 4:30 p.m. central time on the last day permitted for serving a request. Respondent's review rights are more thoroughly described in Minn. Stat. § 326B.082, subds. 4 and 8 (2016).

If the Respondents submit to the Commissioner a timely request for hearing, the Administrative Order shall be stayed unless otherwise ordered by a judge, and a contested case hearing will be conducted. The contested case procedures are set out in chapter 14 of Minnesota Statutes, the Rules of the Office of Administrative Hearings, Minn. Rules 1400.5010 to 1400.8400 (2015), and Minn. Stat. § 326B.082, subd. 8 (2016). These materials may be purchased from the Minnesota Book Store, telephone (651) 297-3000, and are also available at www.revisor.mn.gov.

VII. EFFECT OF FINAL ORDER

If Respondents do not request a hearing or Respondents' request for a hearing is not served on or faxed to the Commissioner by the deadline specified in the "Request for Hearing" section of this Administrative Order, this Administrative Order shall become a final order of the Commissioner and will not be subject to review by any court or agency. *See* Minn. Stat. § 326B.082, subd. 8 (2016).


The penalty imposed upon Respondents by this Administrative Order, other than the forgivable portion, is due and payable ten days after the date the Administrative Order becomes final. If the Commissioner determines that the violations were not corrected within the 31-day period for corrective action, then the forgivable portion of the penalty is due and payable 20 days after the Commissioner serves notice of this determination or on the date this Administrative Order becomes final, whichever is later. *See* Minn. Stat. § 326B.083, subd. 3 (2016).

When this Administrative Order becomes final, the Commissioner may file and enforce any unpaid portion of the penalty as a judgment in district court without further notice or additional proceedings. *See* Minn. Stat. §§ 16D.17 and 326B.083, subd. 2 (2016). Failure to pay a monetary penalty owed may result in the revocation, suspension, or denial of any or all

licenses, permits, certificates, and registrations issued by the Commissioner. *See* Minn. Stat. § 326B.082, subd. 17 (2016). Also, pursuant to Minn. Stat. § 16D.13 (2016), Respondents are hereby notified that thirty (30) days after the date this Administrative Order becomes final, simple interest computed in accordance with Minn. Stat. § 16D.13, subd. 2 (2016) will begin to accrue on the unpaid portion of the penalty.

Dated: 11/2/17

KEN B. PETERSON
Commissioner


BY: CHARLIE DURENBERGER
Director of Licensing and Enforcement
Construction Codes and Licensing Division
Department of Labor and Industry